

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)
)
THE NINETEENTH STREET)
INVESTMENTS, INC.) CASE NO.: 11-04549
) Chapter 7
)
DEBTOR)

MOTION FOR RELIEF FROM AUTOMATIC STAY

Comes now creditor Tammy Hardin individually and as Next Friend of Brittany Caffee, and files this Motion for Relief from Automatic Stay in the above-entitled Chapter 7 proceeding. As grounds, movant shows as follows:

1. Debtor, The Nineteenth Street Investments, Inc., is a Defendant in three, pending state court wrongful death and personal injury actions. Movant Tammy Hardin is a cross claimant against Nineteenth Street Investments, Inc. in one such proceeding. The cases are “Dram Shop” cases arising out of wrongful death and personal injuries suffered in a motor vehicle accident that occurred following the debtor’s alleged illegal sale of alcoholic beverages to an under-age driver. Tammy Hardin’s minor child was injured along with another passenger. One passenger was killed in the accident. The cases are:

Sharon Robertson, individually and as personal representative of the Estate of Timothy Andrew Robertson v. Brittany Caffee, et al.
In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CV-2007-000633-ERV

Susan Green, et al. v. Brittany Caffee, et al.
In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CV-2007-0 00797

Tisha Owens and Bobby Waldrop, as parents and next friend of Michael Waldrop, in minor v. Brittany Caffee, et al.
In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CY-2007-0-00797

The facts and circumstances of Movant’s case are set out in the Fact Summary attached as Exhibit A.

2. The cases have been pending since 2007 and were consolidated for discovery and trial. The trial of the actions was scheduled to begin September 19, 2011, before the Honorable Eugene Verin. The Petition herein was filed September 9, 2011.
3. Co-defendants in the pending state court cases are: The Nineteenth Street Investments, Inc. (debtor); Ibrahim Sabbah (identified in the bankruptcy petition hereunder as the sole shareholder, officer and director of debtor); and Sabbah Brothers Enterprises, Inc.).
4. Plaintiffs have alleged in the state court action that Ibrahim Sabbah and Sabbah Brothers Enterprises, Inc. are alter-egos of debtor, The Nineteenth Street Investments, Inc. and are equally responsible for the torts of debtor. The State trial court determined, in its Order of March 24, 2011, that it would try the underlying tort issues against Defendant, The Nineteenth Street Investments, Inc., and, after entry of any judgment, determine whether the alter-ego co-defendants are also Liable.
5. Debtor has maintained that it has no insurance coverage for any liquor liability claims made by the Plaintiffs in the underlying action. Upon information and belief, however, a Nationwide liquor liability policy was issued to Co-Defendant Sabbah Brothers Enterprises, Inc., insuring the premises operated by debtor.
6. Debtor lists as assets a contingent claim described as "Right to sue insurance agent for messing up the name on the insurance liability policy." (See line item 21, Schedule B of the Petition filed herein). Debtor also lists "other business insurance policies" as an asset (See line 35, Schedule B). It is presumed that this refers to potential claims under the Nationwide liquor liability policy insuring Sabbah Brothers Enterprises, Inc.
7. Plaintiff believes that potential breach of contract and/or bad faith claims against Nationwide might be additional assets for debtor.
8. The value of the claims in the underlying state court law suits cannot be Determined until a judgment is rendered.
9. The State Circuit Court has been involved in litigation of this action since 2007. That Court is most familiar with the issues and the parties involved, and is the forum best suited to resolve the disputes. Since this Bankruptcy Court has no jurisdiction to try wrongful death or personal injury claims, the State Circuit Court is the best forum for resolution of these issues.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court provide relief from the automatic stay entered hereunder and allow the trial to go forward for the purpose of fixing the debtor's contingent liabilities in these underlying cases.

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CERTIFICATE OF SERVICE

I do hereby certify that on the 29th day of May, 2012, a true and correct copy of the foregoing pleading was served on all counsel of record via electronic filing or by placing a copy of same in the United States Mail, First Class Postage Prepaid, to:

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)
)
THE NINETEENTH STREET)
INVESTMENTS, INC.) CASE NO.: 11-04349-113137
) Chapter 7
)
DEBTOR)

FACT SUMMARY FOR MOTION FOR RELIEF FROM AUTOMATIC STAY

Date and Type of Claim: Personal injury and dram shop claims on behalf of Tammy Hardin individually and as Next Friend of Brittany Caffee, arising out of May 2, 2007 automobile accident pending in Susan Green, et al.v. Brittany Caffee, et al., Civil Action No.: CV-07-783, Circuit Court of Jefferson County/Bessemer Division, Alabama. Case filed pre-petition on May 11, 2007.

Liability Insurance: None. A co-defendant in the State Court action, Sabbah Brothers Enterprises, Inc., has a policy with Nationwide. It is believed that the Nineteenth Street Investments, Inc. may have a claim for coverage under this policy, as well as potential errors and omissions claims against Nationwide's agent.

State Court Trial
Counsel for The
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Value of Personal
Injury Claim: The claim is an un-liquidated person injury claim.

Prior Stay Order(s)
Involving Movant: There are no prior stay orders involving Movant in this or any other case.

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